

**ASSEMBLY BILL**

**No. 272**

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**Introduced by Assembly Member Garcia**

February 9, 2007

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An act to add Section 121023 to the Health and Safety Code, relating to HIV.

LEGISLATIVE COUNSEL'S DIGEST

AB 272, as introduced, Garcia. HIV tests.

Existing law requires a licensed physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery to obtain or cause to be obtained a blood specimen of the woman and to submit that blood specimen to a laboratory for an HIV test. Prior to obtaining a blood specimen, existing law requires the physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery to ensure that the woman is informed that she has a right to accept or refuse the testing. Existing law requires the acceptance of testing for HIV to be documented in writing and signed by the patient.

Existing law requires that all health care providers and laboratories report cases of HIV infection to the local health officer using patient names and requires the local health officers to report unduplicated HIV cases by name to the State Department of Public Health. Existing law requires the department and local health officers to ensure continued reasonable access to anonymous HIV testing through alternative testing sites.

This bill would require that any woman seeking an annual gynecological examination or family planning appointment be provided with information on HIV and AIDS, and would require that the woman

be offered the option of being tested onsite, if available, or provided referral information to other testing locations. If the woman chooses to be tested for HIV, the bill would require the physician or other health care professional attending the woman at the time the results are received to ensure that the woman receives information and counseling, as appropriate, to explain the results and the implications for the woman's health, including any followup care that is indicated.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2     following:  
3     (a) The Centers for Disease Control and Prevention reported in  
4     2003 that heterosexual women accounted for a staggering 26  
5     percent of all new HIV and AIDS cases with African-American  
6     and Hispanic Women accounting for 83 percent of these diagnoses.  
7     Heterosexual sex has been the primary method of HIV exposure  
8     for women, with a growing number becoming infected by male  
9     partners who participate in high risk behavior, including sexual  
10    relations with multiple partners, sexual relations with other males,  
11    needle users, or sharing needles.  
12    (b) There are many reasons why fewer women seek  
13    care—especially in communities where social and cultural norms  
14    may discourage women from speaking out about their sexuality.  
15    In some cultures, the promiscuous behavior of male partners is  
16    ignored, and in others, seeking assistance brings fear of being  
17    stigmatized. As a result, women fail to recognize the early  
18    symptoms of HIV and AIDS and do not dare raise questions—even  
19    with their doctors.  
20    (c) The current method of obtaining an HIV or AIDS test  
21    requires women to be proactive or to seek treatment if they believe  
22    they may have been exposed. This requires actively seeking out a  
23    testing site, requesting an examination from an unfamiliar medical  
24    provider, and in most cases, waiting anxiously for weeks for the  
25    results. In light of this frightening threat to women's health, it is  
26    crucial that all women be provided with information about the risk  
27    factors and be encouraged to undergo testing during their normal  
28    doctor's office visits.

1 SEC. 2. Section 121023 is added to the Health and Safety Code,  
2 to read:

3 121023. (a) Any woman seeking an annual gynecological  
4 examination or family planning appointment, at the time of signing  
5 in or otherwise registering and completing any required forms or  
6 documentation, shall be provided written information on HIV and  
7 AIDS. In addition, the woman shall be offered the option of being  
8 tested onsite, if available, or provided referral information to other  
9 testing locations. The information sheet provided shall include,  
10 but shall not be limited to, all of the following:

11 (1) A description of the modes of HIV and AIDS transmission.

12 (2) A description of risk factors that may expose women to HIV  
13 and AIDS, including, but not limited to, partners who may not be  
14 truthful about having sexual relations outside their otherwise  
15 monogamous relationship, males having sex with other males or  
16 prostitutes, or partners using intravenous drugs or sharing needles.

17 (3) A description of the different HIV and AIDS tests available,  
18 including blood or other bodily fluid test.

19 (4) Information on whether or not testing may be covered by  
20 medical insurance.

21 (b) The information sheet shall include all of the following:

22 (1) A clearly marked section in bold print with a place for the  
23 patient's signature where she may accept or decline HIV and AIDS  
24 testing. The signed information sheet shall be maintained in the  
25 patient's medical record.

26 (2) If testing is not available onsite, referral information shall  
27 be provided.

28 (c) (1) If the woman chooses to be tested for HIV, the physician  
29 and surgeon or other health care professional attending the woman  
30 shall obtain a specimen from the woman and submit it to a clinical  
31 laboratory licensed by the department or to an approved public  
32 health laboratory for a test to determine the presence of HIV, and  
33 the results shall be reported to both of the following:

34 (A) The physician and surgeon or other health care professional  
35 who ordered the test and who shall subsequently inform the woman  
36 tested.

37 (B) In the case of a positive test result, to the local health  
38 officer, with the information required and within the timeframes  
39 established under existing law or regulation, including, but not  
40 limited to, Section 121022.

1 (2) If the woman chooses a rapid HIV test, the woman shall be  
2 informed that the preliminary result of the rapid HIV test is  
3 indicative of the likelihood of HIV infection and that the result  
4 must be confirmed by an additional more specific test, or, if  
5 approved by the federal Food and Drug Administration for that  
6 purpose, a second different rapid HIV test.

7 (d) After the results of the HIV test have been received, the  
8 physician and surgeon or other person attending the woman at the  
9 time the results are received shall ensure that the woman receives  
10 information and counseling, as appropriate, to explain the results  
11 and the implications for the woman's health, including any  
12 followup care that is indicated. If the woman tests positive for HIV  
13 antibodies, she shall also receive, whenever possible, a referral to  
14 a provider, provider group, or institution specializing in care for  
15 HIV positive women. Health care providers are also strongly  
16 encouraged to seek consultation with other providers specializing  
17 in the care of HIV positive women.

18 (e) Nothing in this section shall be construed to require  
19 mandatory testing. Any documentation or disclosure of HIV-related  
20 information shall be made in accordance with Chapter 7  
21 (commencing with Section 120975) of Part 4 of Division 105  
22 regarding confidentiality and informed consent.